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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,834	12/04/2003	Ulrich Bonne	H0004834(1100.1205101)	7422
128 7590 01/17/2007 HONEYWELL INTERNATIONAL INC. 101 COLUMBIA ROAD P O BOX 2245 MORRISTOWN, NJ 07962-2245			EXAMINER TURK, NEIL N	
			ART UNIT	PAPER NUMBER
			1743	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/17/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/727,834

Applicant(s)

BONNE ET AL.

Examiner

Neil Turk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-12, 38 and 40-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-12, 38, and 40-50 is/are rejected.
- 7) ☒ Claim(s) 1, 11, 38, and 48 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Remarks

This Office Action fully acknowledges applicant's arguments made on November 9th, 2006. Claims 1, 3-12, 38, and 40-50 are pending. Claims 13-37 have been withdrawn from consideration as being drawn to a non-elected invention. Claims 2 and 39 have been previously cancelled.

Claim Objections

Claims 1, 11, 38, and 48 are objected to because of the following informalities: Examiner requests that Applicant consider replacing "a light source" with "a first light source" so as to parallel the second light source claimed and provide more clarity to the different light sources being claimed. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-6, 38, and 40-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitchell (5,809,185).

Mitchell discloses a sensor for detecting microorganisms. Mitchell discloses sensor 12 includes a light source 16 with a waveguide 18 that is receptive to light from

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the light source and includes a fluorochrome coating 20 thereon. Mitchell further discloses that the waveguide is preferable a porous glass optical fiber. Mitchell also discloses that the waveguide presents a wavelength to detector 22 (lines 46-67, col. 2, figs. 1 and 5). Mitchell further discloses that the detector is a photocell or photomultiplier tuned to only detect wavelengths proximate the shifted wavelength (Stokes shift) caused by the fluorescence emitted by the microorganism in contact with the fluorochrome coating, and the detector provides a signal to indicator 24 which includes a visible and/or audible alarm. Examiner asserts that the fluorochrome coating compositions that are applied to the waveguide constitute a capability of containing a first fluid being the reagent and the sample passed through constitutes permitting a second fluid being the analyte. Examiner further asserts that as claims 1, 3, 38, and 40 are written the claims do not require either fluid to be present, but merely the apparatus must have the physical space for the fluids. Examiner further asserts that the indicator alarm 24 constitutes both a processor connected to the light detector and an indicator connected to the processor such that it takes a signal and produces an audible and/or visible alarm which inherently includes a processing step of the received signal in order to provide an audible and/or visible alarm. Examiner also points to figure 5 of Mitchell which includes a transducer (processor) connected to the photomultiplier 70 and then connected to the indicator in the form of a voltmeter 74 (lines 7-54, col. 4, fig. 5).

Claims 1, 3-9, 38, and 40-46 are rejected under 35 U.S.C. 102(b) as being anticipated by Fein (6,016,372).

Fein discloses chemical sensing techniques employing liquid-core optical fibers. Fein discloses a gas or vapor permeable optical fiber waveguide with a liquid core is employed as a probe for the detection or measurement of a chemical specie of interest by filling the waveguide core region with a reagent liquid which undergoes a change in optical characteristic when exposed to the chemical specie and then inserting the filled waveguide into an environment in which the chemical specie may be present (abstract). Fein discloses that the polymer membrane used is permeable to gases, vapors, and certain chemical substances dissolved in a liquid matrix and the membrane is comprised of a polymer material which is amorphous, optically clear and has a refractive index which is less than 1.33 and the membrane can be formed into various self-supporting cylindrical shapes, which comprise optical waveguides when filled with liquid. Fein also discloses that the inside of the waveguide will be filled with a light conducting liquid and a wide range of chemical solutions whose optical properties are modified when exposed to permeant gases can be dissolved in the waveguide filling fluid (lines 48-67, col. 4; lines 1-12, col. 5). Fein also discloses that a preferable material for use as the containment tube of a reagent core waveguide is the copolymer of PDD and TFE, TEFLON AF 2400 being the copolymer of PDD with TFE, and the reagent core liquid inside the waveguide is an optical indicator responsive when exposed to the analyte. Fein discloses that the optical changes may be detected by UV/Vis absorption, fluorescence, chemiluminescence, or Raman spectrometry (lines 14-40, col. 5). Fein shows such a sensor with a liquid core waveguide as the main body in figures 1-5. Fein shows the liquid core waveguide 10 with liquid core region 12 with liquid core

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material 12', the sensor probe coupled to a light source 16 (laser, LED, tungsten lamp, etc.; lines 20-30, col. 11) through an optical fiber 18, the light propagating through and collected by an optical fiber(s) 20 to an analysis instrument 22 (lines 9-15, col. 6). Fein also discloses a flow-through technique where the core liquid 12 (indicator reagent) is delivered to the waveguide sensor via supply conduit 24 (container connected to the input) and exits through discharge conduit 26 (container connected to the output) (lines 16-23, col. 6, fig. 1). Examiner asserts that the indicator reagent in the waveguide is the first fluid capable of being contained in the enclosure and the analyte passed through is the second fluid that is permitted. Examiner further asserts that as claims 1, 3, 38, and 40 are written the claims do not require either fluid to be present, but merely the apparatus must have the physical space for the fluids. Fein further discloses detection (such as by those methods listed above) and identification of various compounds which includes the use of processors and indicators (columns 8-12). Fein further discloses that a receiver is positioned to detect light passed through the waveguide and monitors a change in an optical characteristic of the reagent (claims 16-18, columns 14 and 15). Fein shows in figure 5 another embodiment in which a specimen gas is delivered to the interior of container of container 86 by means of a pump 88 disposed in an inlet duct 90, and the discharge conduit 92 for the specimen gas is provided with a valve, which is controllable. Fein discloses that the pump and the valve allows the pressure of the of the specimen gas about the exterior of the waveguide tube 14 to be controlled. Fein also discloses through exercise of control over pumps 88 and 96 and valves 94 and 98, the pressure difference between the interior of housing 86 and the interior of tube 14

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can be varied so as to cause gases to move into or out of the core liquid 12' (lines 24-55, col. 12, fig. 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 10-12, 47, 48, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fein in view of Klainer (4,846,548).

Fein has been discussed above.

Fein does not specifically disclose a second light source with a second wavelength..

Klainer discloses a fiber optic element used to detect the presence of a chemical or biological species (abstract). Klainer discloses an optical fiber for transmitting a light signal from a source to a sensor means at the end of the fiber and back to a detector, wherein the fiber optic chemical sensor (FOCS) is coated with a reagent with specific sensitivity for interaction with the analyte of interest (lines 1-67, col. 3, figs.1-5). Klainer shows in figure 4A an LED light source 30 producing a respective frequency and wavelength (could also be a laser, see lines 66-67, col. 6) coupled to a FOCS 32 and then to a photodiode detector (lines 21-67, col. 6, figs. 4A-B). Klainer further discloses in example 1 that multiple wavelength sources may be used to enhance sensitivity (lines 19-29, col. 7)

It would have been obvious to modify the Fein device to include a second light source of a second wavelength such as taught by Klainer in order to provide for enhanced sensitivity in detection of the chemical specie.

Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fein in view of Klainer as applied to claims 10-12, 47, 48, and 50 and in further view of Wong (5,444,249).

Fein in view of Klainer does not specifically disclose a flow sensor in the enclosure.

Wong discloses a gas sensor with a light source at one end of a waveguide and a detector at the opposite end of the waveguide (abstract). Wong also discloses that other devices may be added to the gas sensor to enhance the performance of the sensor, and Wong discloses that a micro-flow sensor may be added to detect the flow rate of the sample gas through the sample chamber (lines 10-19, col. 3).

It would have been obvious to modify the Fein/Klainer device to include a flow sensor in the enclosure such as taught by Wong in order to enhance the performance of the gas sensor and provide for measuring the flow rate of the gas sample flowing through the sample chamber.

Response to Arguments

Applicant's arguments with respect to claims 1-12 and 38-50 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Turk whose telephone number is 571-272-8914. The examiner can normally be reached on M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NT


Jill Warden
Supervisory Patent Examiner
Technology Center 1700